



**File Code:** 6270 2018-FS-WO-04300-F  
2019-OGC-00019-C

**Date:** FEB 12 2019

Mr. Jimmy Tobias  
MuckRock News  
DEPT MR 55022  
411A Highland Avenue  
Somerville, Massachusetts 02144-2516

Dear Mr. Tobias:

This letter is in response to your Freedom of Information Act (FOIA) request dated May 29, 2018, and received in the U.S. Department of Agriculture's (USDA) Forest Service Washington Office FOIA Service Center, Office of Regulatory and Management Services on June 15, 2018, and assigned tracking number 2018-FS-WO-04300-F. Your requested the following records:

“Any and all written or electronic communications sent or received by Interim Chief Vicki Christiansen that contain one or more of the following words or phrases: "Mountain Valley Pipeline", "MVP", "tree sit", "tree sitter", "protest", "protestor", "protestors", "arrest", "arrests", "Chancey", "Nutty", "Appalachian Mountain Advocates", and/or "Appalachian Trail Conservancy". This request also seeks all communication between Ms. Christiansen (or her executive assistant) and any representative of Mountain Valley Pipeline LLC, EQT Midstream Partners, and/or any of their subsidiaries, parent companies or their private security contractors. This request seeks documents produced between March 1, 2018 and the date this request is processed.”

In response to your request, we conducted a search for responsive electronic and hard copy records and located 128 pages responsive to your request: We are releasing 101 pages in full, and 27 pages are being released in part with information being withheld pursuant to Exemptions 5, 6, and 7(C) of the FOIA, 5 United States Code (U.S.C.) § 552(b)(5); (b)(6); and (b)(7)(C).

### **Exemption 5**

Exemption 5 of the FOIA permits the Government to withhold “inter-agency or intra-agency memorandums or letters, which by law would not be available to a party in litigation with the agency.”

### **Deliberative Process Privilege**

The Deliberative Process Privilege, which is incorporated within Exemption 5, protects the decision-making processes of Government agencies, and protects advisory opinions, recommendations, and deliberations. We have determined that certain communications between Forest Service employees must be withheld pursuant to Exemption 5 of the FOIA, 5 (U.S.C.) §



Forest Service employees must be withheld pursuant to Exemption 5 of the FOIA, 5 (U.S.C.) § 552(b)(5). These records are intra-agency records, because they were created within the Forest Service and have never been shared outside the Forest Service. We are withholding certain communications because these portions of the records are pre-decisional and deliberative, and their release would harm the agency's decision making processes.

#### Attorney-Client Privilege

Another privilege incorporated into Exemption 5, the attorney-client privilege, protects confidential communications between an attorney and their client relating to a legal matter for which the client has sought professional advice. This privilege also encompasses any opinions given by an attorney to his client based upon those facts, as well as communications between attorneys, which reflect client-supplied information. We have determined that legal advice provided to the Forest Service by USDA's Office of General Counsel must be withheld pursuant to Exemption 5 of the FOIA, 5 U.S.C. 552(b)(5).

#### Attorney-Work Product

One of the privileges incorporated into Exemption 5, the attorney-work product privilege, protects documents and other memoranda prepared by an attorney in contemplation of litigation. We have determined that this information must be withheld pursuant to Exemption 5 of the FOIA, 5 U.S.C. 552(b)(5).

#### **FOIA Exemptions 6 and 7(C)**

Exemption 6 of the FOIA requires the Government to withhold all information about individuals in "personnel and medical files and similar files," where the disclosure of such information "would constitute a clearly unwarranted invasion of personal privacy." Exemption 6 also involves a balancing of the public's interest in disclosure against the individual's privacy interest. The information being withheld under Exemption 6 consists of personal information including individual names, cellular telephone numbers, individual's home address, and personal email addresses. We have determined that the individuals to whom this information pertains have a substantial privacy interest in withholding it. Additionally, we have determined that the disclosure of this information would shed little or no light on the performance of the agency's statutory duties. The harm to personal privacy is greater than whatever public interest may be served by disclosure, release of the information would constitute a clearly unwarranted invasion of privacy. Accordingly, this information is being properly protected pursuant to Exemption 6.

Exemption 7(C) of the FOIA requires the Government to withhold records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information could reasonably be expected to constitute an unwarranted invasion of personal privacy.

We have determined that names and identifying information of individuals working for or involved with law enforcement must be withheld pursuant to Exemptions 6 and 7(C) of the FOIA. The individuals have a clear privacy interest in the protection of this information, and there is little public interest in its release. The individual privacy rights outweigh the public's interest in this information.

The FOIA provides that requesters pay the reasonable costs for search, review, and duplication of records. Pursuant to Title 7 Code of Federal Regulations (CFR), Subtitle A, Part 1, Subpart A, Appendix A, there are no charges for the records enclosed as we are providing them electronically, and the amount falls below the minimum amount required for the Forest Service to collect fees. This concludes the Forest Service's response to your FOIA request.

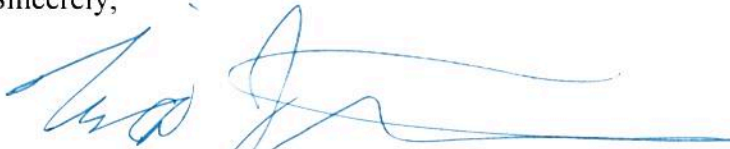
To appeal any withholdings that contain Office of General Counsel equities, you are advised of your right to appeal this response within 90-days of receipt of this letter. You should write on the envelope in capital letters "FOIA APPEAL" and reference FOIA No. 2019-OGC-00019-C. Address your appeal to:

Inga Bumbary-Langston  
Deputy General Counsel  
Room 107-W  
Jamie L. Whitten Federal Building  
U.S. Department of Agriculture  
1400 Independence Avenue, S.W.  
Washington, D.C. 20250-1400

To appeal any withholdings that contain Forest Service equities, you are advised of your right to appeal this response in writing, within 90-days from the date of this letter, to the Chief, USDA, Forest Service: 1) by email to [wo\\_foia@fs.fed.us](mailto:wo_foia@fs.fed.us); 2) by regular mail to Mail Stop 1143, 1400 Independence Avenue, SW, Washington, DC 20250-1143; 3) by Fed Ex or UPS to 201 14th Street, SW, Washington, DC 20250-1143 and telephone (202) 205-1542. The term "FOIA APPEAL" should be placed in capital letters on the subject line of the email or on the front of the envelope. To facilitate the processing of your appeal, please include a copy of this letter and/or the FOIA case number assigned to your request.

If you need any further assistance or would like to discuss any aspect of your request please do not hesitate to contact the FOIA Public Liaison at (202) 205-1542. Additionally, you may contact the Office of Government Information Services (OGIS) National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at (202) 741-5770; toll free at 1 (877) 684-6448; or facsimile at (202) 741-5769.

Sincerely,



CHRISTOPHER B. FRENCH

For Acting Deputy Chief, National Forest System

Enclosure: 128 pages